

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

TYBRISA BEACH RESORT)
CONDOMINIUM ASSOCIATION, INC.,)

Plaintiff,)

v.)

CV419-276

EVEREST INDEMNITY)
INSURANCE COMPANY,)

Defendant.)

REPORT AND RECOMMENDATION

Plaintiff filed this action on October 24, 2019 related to insurance coverage for damage caused by Hurricane Matthew. *See generally* doc. 1. The Clerk issued a summons on the same day. *See* doc. 6. Nothing further has been filed in this case.

The Federal Rules of Civil Procedure state that “[i]f a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant” Fed. R. Civ. P. 4(m). The 90-day period for plaintiff to serve defendants ran on January 22, 2020, approximately 300 days ago. As discussed below, plaintiff has fourteen days to object to this Report and Recommendation. That period provides

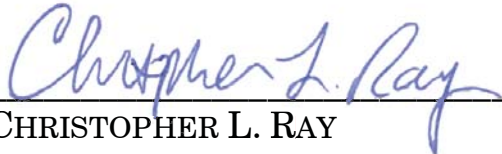
sufficient notice for plaintiff to respond. Accordingly, plaintiff's Complaint should be **DISMISSED** without prejudice for failure to timely serve defendant.

This report and recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned "Objections to Magistrate Judge's Report and Recommendations." Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and recommendation pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; *see Symonette v. V.A. Leasing Corp.*, 648

F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. United States*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO REPORTED AND RECOMMENDED, this 13th day of
October, 2020.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA